IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Crl.MC.No. 2947 of 2007()

CP.13/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, NEDUMANGAD

.....

PETITIONER: ACCUSED

SUDHEER, S/O.SALIM,
PLAVILA HOUSE, PLACHIKUZHI, CHIRAMUKKU,
PERUMKOOR WARD, THEKADA VILLAGE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT & STATE

---

1. SUB INSPECTOR OF POLICE,
NEDUMANGAD POLICE STATION,
THIRUVANANTHAPURAM.

2. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2947 of 2007

Dated this the 24th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 302 I.P.C. Final report has been filed. Cognizance has been taken by the committal court. The petitioner is the 9th accused. Consequent to his non-appearance, a warrant of arrest has been issued against the petitioner. The case against some of the co-accused has already been transferred to the court of Session. The petitioner apprehends arrest in execution of the non-bailable warrant issued by the learned Magistrate. He was on bail at the crime stage.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007